

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

THE UNITED STATES OF AMERICA,

Plaintiff,

**Criminal Action Number:
07-cr-00781-LAK-1**

vs.

JOSE SIERRA,

Defendant.

DEFENDANT SENTENCING MEMORANDUM

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THE OFFENSE AND BACKGROUND

In fashioning an appropriate sentence in this Post-Booker era, the Court must consider a variety of factors in coming up with a sentence that is sufficient but not greater than necessary.

When considering the bent of Mr. Sierra's life, there is little doubt that he has made mistakes. However, there is also ample proof that he does possess a moral fiber. Since committing the instant offense, he has been rather forthright that his actions were out of need rather than greed. Certainly we are not suggesting that there were not legitimate means available for Mr. Sierra to address his financial situation. Clearly he seized the easy way out. However since his arrest Mr. Sierra has undertaken tremendous steps towards rehabilitation. Subsequent to being arrested, he enrolled in a commercial driving school and obtained his certificate as well as his commercial driver's license. He has a B license which qualifies him to drive school buses, tow trucks and passenger vehicles. After completing the training, he has worked as a driver with CBT Transportation. He has worked there for the past ten months. During the course of his employment, Mr. Sierra has demonstrated a tremendous work ethic and has worked as many hours overtime as the company allows him.

Mr. Sierra is proud of the fact that he has obtained a job with a bright future. However

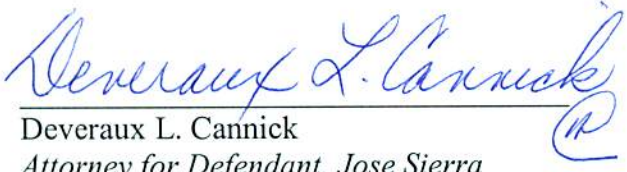
he is most proud of being a good father and provider for his family. During the pendency of this case, Mr. Sierra's wife gave birth to another child. He is involved in the lives of all of his children, emotionally, financially and physically.

SENTENCING RECOMMENDATION

Jose Sierra is 38 years old. He is married and has a total of three children; two by his wife and a sixteen year old from a previous relationship. As mentioned previously, Mr. Sierra plays a very active role in his children's lives. The notion of not being around for his sixteen year old during these, her most critical years, is devastating to him. They share a special relationship. He feels that he has let her as well as the rest of his family down. Mr. Sierra's wife does not work outside of the home. Thus, Mr. Sierra and his family are greatly concerned about his sentence. They recognize that a sentence of imprisonment would have a tremendous negative impact on them. A term of imprisonment would not only cause him to lose his job but there is a strong likelihood that his family would become wards of the State (at least until his wife could find employment).

In satisfying the ends of justice, we submit that a term of imprisonment is not necessary. A sentence of probation and with home confinement would be sufficient. To imprison him would result in extreme hardship on his family. He would lose his job and eventually would have to start anew.

We urge the Court to sentence Mr. Sierra to a probationary sentence.

By: 
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